IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 14614 of 1992

Between:

1 D.Karianna S/o Kariappa
Basavanahalli,Amarapuram Mandal, Anantapur District
2 Sanna Rangappa son of Kariappa
Basavanahalli,Amarapuram Mandal, Anantapur District

..... PETITIONER(S)

AND

1 District Collector
Anantapur
2 The Mandal Reveue officer
Amarapuram , Amarapuram Mandalam Anantapur Dist

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ of Certiorari or any other appropriate Writ or direction calling for the records relating to the notification issued under section 4 and declaration under sec. 6 of the Land Acquisitions Act published in Andhra Jyoti daily dt. 13/03/1992 and Eendau daily dated. 27/10/1992 respectively and quash the same and pass such further or other orders as this Hon'ble Court feels deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.O.MANOHER REDDY

Counsel for the Respondent No.: GP FOR LAND ACQUISITION

The Court made the following :

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ORDER:

Heard the learned counsel for the petitioner and also the learned Government Pleader appearing on behalf of the respondents.

Petitioners herein, who claimed to be the owners of the land in S.No. 490/1 of Uppsarahalli Village hamlet of Basavanahalli Amarapuram Mandalam, Anantapur District, filed this Writ Petition inter alia, calling for the records relating to the notification issued under Section 4 and declaration under Section 6 of the Land Acquisition Act published in daily newspapers on 27.10.1992 and 13.3.1992 respectively.

Petitioners' claim is that they are the small farmers. Their allegation is that in the enquiry sought to be conducted under Section 5-A of the Land Acquisition Act, is a false one and no proper opportunity was given to them and therefore, there is absolutely no consideration in regard to the substantial objections raised by the petitioners. It is also their case that the land is containing several valuable and fruit yielding trees, which have also not been noted either in the inspection report or in the notification. Hence, the present Writ Petition has been filed challenging the

entire notification.

Respondents herein filed a counter inter alia, stating that after having found that there is need for providing house sites to weaker sections, the acquisition proceedings have been initiated and accordingly, notification was issued on 13.3.1992 followed up by a publication in local newspapers. Therefore, due procedure as contemplated under Law has been complied with. In the enquiry contemplated under Section 5-A, notices have been issued to the petitioners and petitioners appeared in the enquiry and submitted their objections, which have been considered, and before final action has been taken, petitioners approached this court and obtained stay. Hence, he sought dismissal of the Writ Petition.

On considering the submissions made and also on a perusal of the material, the question that calls for consideration is as to whether the impugned acquisition proceedings are sustainable either in law on in facts as sought by the petitioners?

Petitioners no doubt claimed to be owners and they are in possession. Further, their complaint is that no proper opportunity was given in the enquiry under Section 5-A. Even in the counter affidavit, it is found that the land in question contains several trees and part of the land is found to be Harijans and other caste ryots. It is also apparent from the counter that the present beneficiaries are Schedule Castes, Backward Classes and Economically Backward Classes in the village and they are houseless persons only.

From the above, it is evident that the acquisition is of the year 1992 and admittedly, possession was not taken from the petitioners. In the normal circumstances, the acquisition proceedings would get lapse. In view of the same, it is not necessary to go into the correctness or otherwise of the land acquisition proceedings as of this date. It would suffice in the interests of justice to direct the respondents herein to initiate fresh proceedings against petitioners.

With the above observation, the Writ Petition is disposed of. No costs.

22.07.2004.

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Twenty Second Day of July Two Thousand Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 District Collector
Anantapur
2 The Mandal Reveue officer
Amarapuram , Amarapuram Mandalam Anantapur Dist

3. 2CCs to G.P. for Land Acquisition, High Court Buildings, High Court of A.P., Hyderabad.

4. 2CD copies